



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* ("the *Act*") for cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46.

DT ('landlord') appeared as agent on behalf of the landlord, and had full authority to do so. Both parties were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

The landlord acknowledged receipt of the tenants' application for dispute resolution hearing package ("Application"). In accordance with section 89 of the *Act*, I find the landlord was duly served with the Application. Neither party submitted written evidence for this hearing.

The tenant confirmed receipt of the 10 Notice to End Tenancy for Cause (the 10 Day Notice) dated June 15, 2017, with a corrected effected date of June 25, 2017. Accordingly, I find that the 10 Day Notice was served to the tenant in accordance with section 88 of the *Act*.

Issues to be Decided

Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Background and Evidence

The landlord's agent testified this month-to-month tenancy began on July 1, 2016. Rent is currently set at \$3,500.00 per month, payable on the first of the month. The landlord collected a security deposit in the amount of \$1,750.00, which the landlord still holds.

The landlord issued the 10 Day Notice on June 15, 2017, 2017 as the tenants failed to pay \$9,400.00 in outstanding rent by June 1, 2017. The tenants have not paid any rent since the Notice was issued to them. The landlord testified that the tenants owe the entire monthly rent for February 2017 through to August 2017, and made one \$8,000.00 payment towards the outstanding amount on May 4, 2017. The landlord's agent testified

that the tenant owes at least \$16,000.00 in outstanding rent as of the hearing date, which the tenants do not dispute.

Analysis

Section 26 of the Act, in part, states as follows:

Rules about payment and non-payment of rent

- 26** (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

The tenants do not dispute that they have not paid the outstanding rent as required by section 26(1) of the *Act*. Based on the testimony of both parties, I find that the tenants were served with the Notice to End Tenancy, and I find that the 10 Day Notice is valid and does comply with the form and content provisions of section 52 of the *Act*. I find that the tenants had failed to pay the outstanding rent as required by the *Act*, and I am dismissing the tenants' application to cancel the 10 Day Notice.

Section 55(1) of the *Act* reads as follows:

- 55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if
- (a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and
 - (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

I find that the landlord is entitled to a two (2) day Order of Possession against the tenants, pursuant to section 55 of the *Act*. The landlord will be given a formal Order of Possession which must be served on the tenants. If the tenants do not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Conclusion

I dismiss the tenants' application to cancel the landlord's 10 Day Notice. I find that the landlord's 1 Month Notice is valid and effective as of June 25, 2017. I, therefore, grant an Order of Possession to the landlord effective two **days after service of this Order** on the tenant(s). Should the tenant(s) and any occupant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: August 30, 2017

Residential Tenancy Branch